

AN ORDINANCE ESTABLISHING A MUNICIPAL UTILITY TAX
WITHIN THE VILLAGE OF FRANKLIN PARK

WHEREAS, the President and Board of Trustees of the Village of Franklin Park have received reports from staff, including reports from departments regarding necessary maintenance and improvements of infrastructure and repairs in order to extend the useful life of equipment currently in service, and also from the administrative offices of the Village, including the Village Comptroller and the Office of Public Works, which indicate that the expenses of the Village for such activities will continue to increase at a disproportionate rate to the increase in revenues derived from existing sources; and

WHEREAS, careful consideration has been given to the economic viability of initiating a municipal utility tax within the Village of Franklin Park in order to generate necessary general revenues to address required expenditures for the above stated purposes and also to contribute to expenditures incurred in other improvements within the Village, obligated expenses to pension programs and retirement programs of Village employees, and other expenses as reflected in the Village's annual appropriation ordinance; and

WHEREAS, it is estimated that sufficient revenue will be generated for purposes of these needs and that there may be an opportunity in the future, provided specific project improvements are funded by their own legislative approvals, to reduce or abate the municipal utility tax as hereby imposed, however no such reduction or abatement shall occur absent appropriate approval and action by the Corporate Authorities of the Village of Franklin Park;

NOW, THEREFORE, be it ordained by the President and the Board of Trustees of the Village of Franklin Park, Cook County, Illinois, as follows:

SECTION 1. That a tax is imposed on all persons engaged in the following occupations or privileges:

(a) Persons engaged in the business of transmitting messages by means of electricity, including but not limited to all telephone services and systems, at the rate of five percent (5.0%) of the gross receipts for such business originating within the corporate limits of the Village of Franklin Park.

(b) Persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the Village of Franklin Park, and not for resale, at the rate of five percent (5.0%) of the gross receipts therefrom.

(c) Persons engaged in the business of distributing, supplying, furnishing, or selling electricity for use or consumption within the corporate limits of the Village of Franklin Park, and not for resale, at the rate of five percent (5.0%) of the gross receipts therefrom.

SECTION 2. That no tax is imposed by this Ordinance with respect to any transaction in interstate commerce or otherwise to the extent to which such

business may not, under the Constitution and Statutes of the United States, be made subject to taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing or selling gas, water or electricity, or engaged in the business of transmitting messages be subject to taxation under the provisions of this Ordinance for such transactions as are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by Section 8-11-1 of the "Illinois Municipal Code", approved May 29, 1961, as amended.

SECTION 3. That such tax shall be in addition to the payment of money, or value of products or services furnished to this municipality by the taxpayer as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer's business.

SECTION 4. That for the purposes of this ordinance the following definitions shall apply:

(a) "Gross receipts" means the consideration received for the transmission of messages, or for distributing, supplying, furnishing or selling gas or electricity for use or consumption and not for resale, as the case may be; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith; and shall be determined without any deduction on account of the cost of transmitting said messages, without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever. "Gross receipts" shall not include receipts received from the Village of Franklin Park for the sale to said municipality of any of the utility products or service mentioned above and shall not include charges added to customers' bills in respect of other taxes.

(b) "Transmittal messages," in addition to the usual and popular meaning of person to person communication, shall include the furnishing, for a consideration, of services or facilities (whether owned or leased), or both, to persons in connection with the transmission of messages where such persons do not, in turn, receive any consideration in connection therewith, but shall not include such furnishing of services or facilities to persons for the transmission of messages to the extent that any such services or facilities for the transmission of messages are furnished for a consideration, by such persons to other persons, for the transmission of messages.

(c) "Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, municipal corporation or political subdivision of this State, or a receiver, trustee, conservator or other representative appointed by order of any court.

SECTION 5. That this ordinance shall take effect after publication and the tax provided for herein shall be based on the gross receipts, as herein defined, actually paid to the taxpayer for services billed on or after the first day of September, 1989.

SECTION 6. That on or before the last day of January, 1990, each taxpayer shall make a return to the Village Comptroller for the months of September,

October and November, 1989, stating:

1. The taxpayer's name;
2. Principal place of business;
3. Gross receipts during those months upon the basis of which the tax is imposed;
4. Amount of tax; and
5. Such other reasonable and related information as the Corporate Authorities may require.

On or before the last day of every third month thereafter, each taxpayer shall make a like return to the Village Comptroller for a corresponding three months period.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village Treasurer, the amount of tax herein imposed, provided that in connection with any return the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts.

SECTION 7. That if it shall appear that an amount of tax has been paid which was not due under the provisions of this Ordinance, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Ordinance from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefore shall be so credited.

SECTION 8. That no action to recover any amount of tax due under the provisions of this Ordinance shall be commenced more than three (3) years after the due date of such amount.

SECTION 9. That any taxpayer who fails to make a return, or who makes a fraudulent return, or who wilfully violates any other provision of this ordinance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00) and in addition shall be liable in a civil action for the amount of tax due.

SECTION 10. That any Ordinance or part of any Ordinance in conflict with the provisions of this Ordinance is hereby repealed solely to the extent of such conflict.

SECTION 11. That if any portion of this Ordinance is determined by a Court of competent jurisdiction to be invalid or unenforceable, then such portion shall be severed herefrom and the remaining portions continue in full force and effect.

SECTION 12. That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form in the manner as provided by law.

PASSED this 26th day of June, 1989.

AYES 5 NAYS 1 ABSENT -
Mr. Schulze Ms. Garoppolo Mr. Neuzil
Mr. Pedersen
Mr. Kopera
Mr. Kahler

APPROVED by me this 26th day of June, 1989.

Paul B. Sullivan
Village President

Attest:

Joe Thomas, Jr.
Village Clerk

Published in pamphlet form
this 26th day of June, 1989,
by Order of the Corporate Authorities
of the Village of Franklin Park, Cook County, Illinois.

Joe Thomas, Jr.
Village Clerk